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Federal Communications Commission  
Washington, D.C. 20554  
MAY 23 1996

DOCKET FILED IN ORIGINAL

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JUN 13 1996

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

The Honorable Bob Goodlatte  
U. S. House of Representatives  
10 Franklin Road, S.E., Suite 540  
Roanoke, Virginia 24011-2121

DOCKET FILED IN ORIGINAL

Dear Congressman Goodlatte:

Thank you for your letter of April 9, 1996, on behalf of your constituent, Ed Clark, regarding the Commission's proposal to transition from licensing paging frequencies on a transmitter-by-transmitter basis to a geographic licensing approach. Mr. Clark expresses concern that his existing paging channels will be awarded to someone else in a competitive bidding process. Mr. Clark also requests information concerning a filing fee for a tariff that he paid in 1993.

On February 8, 1996, the Commission issued a Notice of Proposed Rule Making (Notice) in (WT Docket No. 96-18) and PP Docket No. 93-253, which proposes to transition from licensing paging channels on a transmitter-by-transmitter basis to a geographic licensing approach. An important issue in the Notice is its potential impact on paging systems that have been licensed already on a site-specific basis. Under the proposal, incumbent licensees would be allowed to continue to operate under their existing site-specific authorizations or a single system-wide license and geographic licensees would be required to provide protection to all co-channel systems that are constructed and operating within their service areas.

Extensive comments have been filed in response to this issue, as well as the other issues proposed in the Notice. While I cannot prejudge the Commission's decision, I can assure you that we will carefully consider the comments of the paging industry and the concerns stated in your constituent's letter. It is also notable that on April 23, 1996, the Commission released a First Report and Order in WT Docket 96-18 and PP Docket 93-253, which adopted interim measures governing the licensing of paging systems and partially lifted the interim freeze for incumbent paging licensees. For your convenience and information, enclosed is a copy of the Press Release concerning the First Report and Order, which includes a summary of the principal decisions made. Specifically, small and medium sized incumbent paging companies will be permitted to expand their service areas if the proposed new site is within 65 kilometers (40 miles) of an authorized and operating site. These interim rules will remain in effect until the Commission adopts final rules in the paging proceeding.

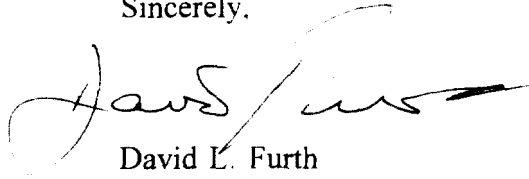
With regard to your constituent's concerns about payment of a tariff, in the *CMRS Second Report and Order*, the Commission decided to forbear from requiring or permitting CMRS providers to file tariffs. Consequently, the Commission directed all CMRS providers to cancel their tariffs that were on file for domestic interstate CMRS services. Because Section 1.1105 of the Commission's Rules requires a fee for tariff filings, CMRS providers were

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required to pay a filing fee when withdrawing their tariffs in compliance with the directive in the *CMRS Second Report and Order*. The statutory purpose for the Congressionally-authorized fee program is to assess and collect fees for services provided to the public. Although the regulation provides for exemptions from the fee requirement, it has been the practice of the Commission, consistent with Congressional intent, not to grant exemptions routinely. The Commission has found previously that an exemption from the payment of a fee for a filing necessitated by a revision in tariffing rules was not envisioned by Congress. Another party has requested, in a petition for reconsideration of the *CMRS Second Report and Order*, that the Commission waive the fee for canceling tariffs in this situation. That matter is presently pending before the Commission.

Thank you for your inquiry.

Sincerely,

A handwritten signature in black ink, appearing to read "David L. Furth", with a stylized flourish at the end.

David L. Furth  
Chief, Commercial Wireless Division  
Wireless Telecommunications Bureau

cc: Commercial Wireless Division  
Dockets

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BOB GOODLATTE  
6TH DISTRICT, VIRGINIA

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COMMITTEE ON THE JUDICIARY  
COMMITTEE ON AGRICULTURE  
ASSISTANT MAJORITY WHIP

Congress of the United States  
House of Representatives

April 9, 1996

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1950*

Ms. Judith L. Harris, Director  
Office of Legislative Affairs  
Federal Communications Commission  
Room 808  
1919 M Street, N.W.  
Washington, D.C. 20554

Dear Ms. Harris:

Enclosed herewith, please find a memorandum prepared by my District Director on behalf of my constituent, Ed Clark, regarding his concerns about pager licenses and having to pay a tariff.

I would appreciate your looking into this matter and providing me with a response for my constituent. Please mail your response to my Roanoke office at the address marked below.

Thank you for your assistance.

With kind regards.

Very truly yours,

Bob Goodlatte  
Member of Congress

RWG:pl

Enclosure

☐ 2 SOUTH MAIN STREET  
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M E M O R A N D U M

TO: FILE

FROM: Pete Larkin, District Director *PL*

DATE: March 9, 1996

RE: Afton Communications case

The Roanoke office recently received a call from Mr. Ed Clark with Afton Communications in Roanoke.

Mr. Clark says his company operates pagers (at 158.100) in Southwest Virginia and portions of Kentucky, Tennessee, and West Virginia. He says the Federal Communications Commission has suspended issuing licenses for paging systems while it prepares to auction additional spectrum. He says he is concerned that the agency will auction the license that he currently has.

Mr. Clark also says that in 1993, the FCC determined that he would have to pay a special tariff. Mr. Clark says he paid a \$490 filing fee for the tariff. He says the FCC later determined that it was not going to charge the tariff but that he would have to pay an additional \$490 fee. Mr. Clark says the FCC has been unable to tell him whether his fees will be refunded.

*RCCs had to <sup>file</sup> pay tariff with \$490 filing  
4-19-94 FR don't need tariff  
pay another \$490 fee to <sup>unfile</sup> tariff*